

REMARKS/ARGUMENTS

Applicant has reviewed and considered the Office Action mailed on September 23, 2005, and the references cited therewith.

Claim 16 is amended to correct a typographical error and not in response to any rejection and/or document provided in the Office Action. Claims 1-6, 8-20, and 22-30 are pending in this application.

§ 103 Rejection of the Claims

Claims 1-6 and 8-15

Claims 1, 9-10 and 12 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,655,084 to Pinsky et al. (Pinsky), in view of JP Patent No. 406209907 to Miyajima (Miyajima) and U.S. Patent No. 5,671,353 to Tian et al. (Tian), and further in view of U.S. Patent No. 5,465,331 to Yang et al. (Yang).

Claims 2-3 were rejected under 35 USC §103(a) as being unpatentable over Pinsky, Miyajima, Tian, and Yang as applied to the claims above, and further in view of U.S. Patent No. 5,361,334 to Cawley.

Claims 4-6, 8, and 13-15 were rejected under 35 USC §103(a) as being unpatentable over Pinsky, Miyajima, Tian, and Yang, as applied to the claims above, and further in view of U.S. Patent No. 6,351,547 to Johnson.

Claim 11 was rejected under 35 USC §103(a) as being unpatentable over Pinsky, Miyajima, Tian, and Yang, as applied to the claims above, further in view of Wahle (Secure Inter-Institutional Image Communication by using DICOM-DICOM Gateways-[retrieved IEEE database]), and further in view of U.S. Patent No. 6,252,857 to Fendick.

Applicant respectfully traverses the rejections.

Claims 1 and 12

Applicant respectfully submits that the cited references do not teach or suggest all elements recited in the Applicant's claims. For example, with respect to claim 1 Pinsky and Tian do not teach or suggest a method that includes receiving a

network communication including an asset having image data and patient data, and storing the asset and validating the patient data in parallel, where validating the patient data includes issuing a reconciliation event when the patient data is invalid or incomplete, as recited in claim 1.

Pinsky and Tian also do not teach or suggest a method that includes selectively processing the patient data and the image data with separate software modules to store the asset and validate the patient data in parallel as the packets are received and issuing a reconciliation event when patient data is invalid or incomplete, as recited in claim 12.

As asserted by the Examiner, Pinsky does not disclose validating of data. In addition, Tian is directed to ensuring compatibility within a protocol (e.g., the DICOM standard). Tian, however, does not teach or suggest that this compatibility extends beyond the protocol to either image data and/or patient data that are being moved through the use of the protocol. As provided in Tian, the DICOM standard is a format for sending and receiving messages having encapsulated digital medical imagery between PACS. Tian discusses provisions for checking or validating the syntax of the DICOM messages, not the encapsulated image and/or patient data, to ensure that the messages conform to the DICOM standard. So, it is the protocol (e.g., the DICOM standard) that Tian is validating, not patient data. As such, Tian does not teach or suggest forwarding a storage asset upon reconciling the patient data, as recited in claim 1, or forwarding the storage asset to a network destination upon validating the patient data and prior to receiving all of the image data, as recited in claim 12.

The Office Action further asserts that while Pinsky does not disclose validating the patient data, it would have been "an obvious modification to the aforementioned method . . . as further evidenced by Miyajima" that discloses "[a] method for employing an image diagnosis device for correlating and storing medical images related to a patient (purpose; constitution)." The Office Action asserts that the method of Miyajima "comprises validating patient data (i.e. patient's name, the distinction of sex, the date of birth) associated with the image data (i.e. medical image), wherein validating the patient data includes issuing a reconciliation event when the patient data is invalid or incomplete, and requesting the invalid or

incomplete patient data to be reconciled (i.e. via user interface) during a reconciliation event (i.e. changing input of patient's ID number), (constitution)" (page 3). The applicant respectfully disagrees with this interpretation of Miyajima.

Miyajima provides a device where a person enters an ID number of a patient, where if the ID number is found an image is retrieved and can be opened to obtain the patient's name, the distinction of sex, and the date of birth (Constitution). Miyajima further provides that the patient display is compared with a "test request slip," where if an entry into a category is different, then one item out of the displayed patient data can be changed if it is determined that the patient's ID number was correct as entered (Constitution, Purpose).

So, Miyajima appears to teach that a human verifies information on the system with information provided on a "test request slip." The plain meaning of "test request slip" is taken as "[a] small piece of paper, especially a small form, document, or receipt" (The American Heritage Dictionary, third edition, page 1697). "Plain meaning" refers to the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention. Phillips v. AWH Corp., __ F.3d __, 75 USPQ2d 1321 (Fed. Cir. 2005) (en banc). Since the term "test request slip" has not been defined in the Office Action, and there is no definition that can be found in Miyajima, the plain meaning of the term "slip" should be defined as above. Using this plain meaning, it appears from Miyajima that patient information provided on a "test request slip" is compared to the information provided on the system by a person.

Miyajima, however, does not teach or suggest that a reconciliation event is being issued when the patient data is invalid or incomplete. Nothing need be issued as any incorrect or missing information is entered into the system by the person already holding the test request slip. Miyajima also does not teach or suggest requesting the invalid or incomplete patient data to be reconciled during the reconciliation event, because the person is already holding the "test request slip" that has the necessary information (i.e. they have all the information they need in front of them, so there's no need to make "a request" for the invalid or incomplete patient data).

As such, Applicant submits that independent claims 1 and 12 are distinguishable from the cited references.

The Yang reference does not cure the deficiencies of Pinsky, Miyajima and Tian. The Yang reference appears to describe a parallel, scalable internetworking unit architecture (Abstract). The Yang reference does not teach or suggest issuing a reconciliation event when patient data is invalid or incomplete. As such, each and every element and limitation are not provided in the references, either independently or in combination, to support a §103 rejection of claims 1 and 12.

Accordingly, reconsideration and withdrawal of the §103 rejection for independent claims 1 and 12, as well as those claims which depend therefrom, are respectfully requested. Claims 2-6 and 8-11 are dependent claims upon independent claim 1, and claims 13-15 are dependent claims upon independent claim 12. Accordingly, Applicant asserts that claims 2-6 and 8-15 are deemed allowable upon the basis discussed above.

Claims 16-20 and 22

Claim 16 was rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,661,228 to Haworth, et al. (Haworth), in view of U.S. Patent No. 5,105,424 to Flaig, et al. (Flaig), further in view of JP Patent No. 406209907 to Miyajima (Miyajima), Tian, and further in view of Yang.

Claim 17 was rejected under 35 USC §103(a) as being unpatentable over Haworth, Flaig, Miyajima, Tian, and Yang and further in view of Cawley.

Claims 18-20 were rejected under 35 USC §103(a) as being unpatentable over Haworth, Flaig, Miyajima, Tian, and Yang and further in view of Johnson.

Claim 22 was rejected under 35 USC §103(a) as being unpatentable over Haworth, Flaig, Miyajima, Tian, and Yang further in view of Wahle (Secure Inter-Institutional Image Communication by using DICOM-DICOM Gateways- [retrieved IEEE database]), and further in view of Fendick.

Applicant respectfully traverses the rejections.

Claim 16

Applicant respectfully submits that the cited references do not teach or suggest all elements recited in the Applicant's claims. For example, with respect to claim 16 Haworth, Miyajima, Flaig and Tian do not teach or suggest a router that includes a validation software module that validates the patient data in parallel with the storage of the asset, where the validation software module issues a reconciliation event when the patient data is invalid or incomplete to reconcile the invalid or incomplete data, as recited in claim 16.

As provided in the Office Action, Haworth and Flaig do not disclose a validation software module that validates patient data, and forwards the storage asset upon the validation of the patient data. In addition, Tian is directed to ensuring compatibility within a protocol (e.g., the DICOM standard). Tian does not teach or suggest that this compatibility extends beyond the protocol to patient data that is being moved through the use of the protocol, as discussed above for claims 1 and 12.

The Office Action then asserted that missing disclosure would have been an obvious modification as evidenced by Miyajima that discloses "an image diagnosis device for correlating and storing medical images related to a patient (purpose; constitution)" (page 9). The Office Action asserts that "Miyajima further discloses device comprises means for validating patient data (i.e. patient's name, the distinction of sex, the date of birth) associated with the image data (i.e. medical image), wherein the image diagnosis device issues a reconciliation event when the patient data is invalid or incomplete, and requesting the invalid or incomplete patient data to be reconciled (i.e. via user interface) during a reconciliation event (i.e. changing input of patient's ID number), (constitution)" (page 9). The applicant respectfully disagrees with this interpretation of Miyajima.

As discussed above, Miyajima provides a device where a person enters the ID number of a patient, if the ID number is found, an image is retrieved and can be opened to obtain the patient's name, the distinction of sex, and the date of birth (Constitution). Miyajima further provides that the patient display is compared with a "test request slip," where if an entry into a category is different, then one item out

of the displayed patient data can be changed if it is determined that the patient's ID number was correct as entered (Constitution, Purpose).

So, Miyajima appears to teach that a human verifies information on the system with information provided on a "test request slip." The plain meaning of "test request slip" is taken as "[a] small piece of paper, especially a small form, document, or receipt" (The American Heritage Dictionary, third edition, page 1697), as discussed above. Using this plain meaning, it appears from Miyajima that patient information provided on a "test request slip" is compared to the information provided on the system by a person.

Miyajima, however, does not teach or suggest that a reconciliation event is being issued when the patient data is invalid or incomplete. Nothing need be issued as any incorrect or missing information is entered into the system by the person already holding the test request slip. Miyajima also does not teach or suggest requesting the invalid or incomplete patient data to be reconciled during the reconciliation event, because the person is already holding the "test request slip" that has the necessary information (i.e. they have all the information they need in front of them, so there's no need to make "a request" for the invalid or incomplete patient data). As such, Applicant submits that independent claim 16 is distinguishable from the cited references.

The Yang reference does not cure the deficiencies of Haworth, Miyajima, Flaig and Tian, as discussed above for claims 1 and 12. As such, each and every element and limitation are not provided in the references, either independently or in combination, to support a §103 rejection of claim 16.

Accordingly, reconsideration and withdrawal of the §103 rejection for independent claim 16, as well as those claims which depend therefrom, are respectfully requested. Claims 17-20 and 22 are dependent claims upon independent claim 16. Accordingly, Applicant asserts that claims 17-20 and 22 are deemed allowable upon the basis discussed above.

Claims 23-30

Claims 23 and 25 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,642,513 Schnellinger, et al. (Schnellinger), in view of Fendick, further in view of Miyajima.

Claim 24 was rejected under 35 USC §103(a) as being unpatentable over Schnellinger, Fendick and Miyajima as applied to the claims above, and further in view of Wahle (Secure Inter-Institutional Image Communication by using DICOM-DICOM Gateways- [retrieved IEEE database]).

Claims 26-28 were rejected under 35 USC §103(a) as being unpatentable over Schnellinger, Fendick and Miyajima as applied to the claims above, and further in view of U.S. Patent No. 6,574,629 to Cooke, Jr., et al..

Claims 29-30 were rejected under 35 USC §103(a) as being unpatentable over Schnellinger, Fendick and Miyajima as applied to the claims above, and further in view of U.S. Patent No. 6,532,455 to Martin, et al.

Applicant respectfully traverses the rejections.

Claim 23

Applicant respectfully submits that the cited references do not teach or suggest all elements recited in the Applicant's claims. For example, with respect to claim 23 Schnellinger, Fendick and Miyajima do not teach or suggest a method that includes, besides other things, validating the image data and patient data of a storage asset, as recited in claim 23.

As provided in the Office Action, Schnellinger and Fendick do not disclose a method that includes validating image data and patient data in a storage asset. The Office Action asserts, however, that "these limitations would have been obvious modifications . . . as evidenced by Miyajima" (page 12). The Office Action asserts that "Miyajima discloses method for employing an image diagnosis device for correlating and storing medical images related to a patient (purpose; constitution). Miyajima further discloses the method comprises means for validating patient data (i.e. patient's name, the distinction of sex, the date of birth) and the image data (i.e. medical image), wherein the image diagnosis device issues a reconciliation event when the patient data is invalid or incomplete, and requesting the invalid or

incomplete patient data to be reconciled (i.e. via user interface) during a reconciliation event (i.e. changing input of patient's ID number), (constitution)" (page 12). The applicant respectfully disagrees with this interpretation of Miyajima.

With respect to the asserted teaching of Miyajima, the Abstract of Miyajima provides that the "PURPOSE: [is] [t]o significantly reduce the input items, and also to significantly reduce the faulty inputs by providing a display means for reading and displaying patient data, a changing means by which one item out of the displayed patient data cast be changed, and a storing means by which the changed patient data and the tomographic image data picked up from the patient are correlated and stored" (emphasis added). Miyajima does not teach or suggest, besides other things, the image data itself is validated and/or reconciled; only that "patient data" can be changed and stored.

Miyajima does indicate that in the case where "there is no image, it follows that it is the first test, and the patient's name, the distinction of sex, and the date of birth are input" (Abstract, Constitution). Miyajima, however, does not appear to teach or suggest that any action be taken either to validate and/or reconcile the fact that the image is missing, only that the patient's information is to be entered.

Accordingly, reconsideration and withdrawal of the §103 rejection for independent claim 23, as well as those claims which depend therefrom is respectfully requested. Claims 24-30 are dependent claims upon independent claim 23. Accordingly, Applicant asserts that claims 24-30 are deemed allowable upon the basis discussed above.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 236-0122 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner of Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 20th day of December 2005.

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Date: Dec. 20, 2005